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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,474	09/27/2001	Fuminobu Ogawa	214320US2	9542
22850	7590	11/10/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			RAMAKRISHNAIAH, MELUR	
			ART UNIT	PAPER NUMBER
			2643	

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/963,474	OGAWA ET AL.	
	Examiner	Art Unit	
	Melur Ramakrishnaiah	2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9-27-01, 9-19-02</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 4, 7 are rejected under 35 U.S.C 102(e) as being anticipated by Barraclough (US PAT: 6,163,335).

Regarding claim 1, Barraclough discloses an image communication device comprising: image receiving means (108a, fig. 1) for receiving an image, image mute control means in (108a, fig. 1) for automatically judging whether or not the image received by the image receiving means is output, and image outputting means in (108a, fig. 1) outputting image received by the image receiving means through wire communication line or radio communication line in case where the image mute control means judges to output image (figs. 1, 3, abstract; col. 3, line 22 – col. 4, line 7).

Regarding claim 7, Barraclough discloses an image communication method, comprising the steps of: receiving an image, automatically judging whether or not the received image is output, and outputting the received image through wire communication line (106, fig. 1) or radio communication line in case where it is judged to output the received image (figs. 1, 3, abstract; col. 3, line 22 – col. 4, line 7).

Regarding claims 2, 4, Barraclough further teaches the following: image mute control means in (108a, fig. 1) controls the image outputting means not to output the image received by the image receiving means when a power is supplied to the image communication device (this is implicit in as much as the power is essential to operate the system), and the image mute control means controls image outputting means in (108a, fig. 1) according to mute-off instruction (this is indicated by preprogrammed codes, col. 3 lines 50-59) to output the image received by the image receiving means in (108a, fig. 1), an electronic phone book for setting a mute-off state for each of other some ends of communication, wherein image mute control means in (108a) judges that the image received by the image receiving means is output to one end of communication in case mut-off state is set for the end of electronic phone book, and image mute control means judges that the image received by the image receiving means is not output to one end of communication where no mute-off state is set for the end by the electronic phone book (figs. 1, 3, col. 5 lines 9-45).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Barraclough in view of Menju et al. (JP407170507A, hereinafter Menju).

Regarding claim 3, Barraclough does not teach the following: time managing means for managing a passing time, wherein the image mute control means judges according to the passing time by the time managing means whether or not the image received by the image receiving means is output.

However, Menju discloses video telephone system which teaches the following: time managing means (14, fig. 2) for managing a passing time, wherein the image mute control means (reads on CPU 12, drawing 2) judges according to the passing time by the time managing means whether or not the image received by the image receiving means is output (fig. 2, see abstract).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Barraclough's system to provide for the following: time managing means for managing a passing time, wherein the image mute control means judges according to the passing time by the time managing means whether or not the image received by the image receiving means is output as this arrangement would facilitate the user to control the image output according to time zone as taught by Menju, thus providing user means to control image display to suite his needs.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barraclough in view of Kabushiki (WO 01/24523 A1).

Regarding claim 5, Barraclough does not teach the following: error monitoring means for monitoring a degree of error occurring in communication line, wherein image mute control means judges according to the degree of error monitored by the error monitoring means whether or not image received means is output.

However, Kabushiki discloses mobile terminal which teaches the following: error monitoring means for monitoring a degree of error occurring in communication line, wherein image mute control means judges according to the degree of error monitored by the error monitoring means whether or not image received means is output (fig. 1 page 7 lines 6-14).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Barraclough's system to provide for the following: error monitoring means for monitoring a degree of error occurring in communication line, wherein image mute control means judges according to the degree of error monitored by the error monitoring means whether or not image received means is output as this arrangement would facilitate the control image transmission deprecating upon transmission conditions so that battery power is not wasted as taught by Kabushiki.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barraclough in view of Nishimura (JP 405219500A).

Regarding claim 6, Barraclough does not teach the following: image storing means for storing an image in advance, wherein image stored by the image storing means is output by the image outputting means in case where image mute control means judges to output the image stored by the image storing means in place of image received by the image receiving means.

However, Nishimura discloses visual telephone set which teaches the following: image storing means (10, fig. 1) for storing an image in advance, wherein image stored by the image storing means is output by the image outputting means in case where

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image mute control means (reads on terminal control part 9, fig. 1) judges to output the image stored by the image storing means in place of image received by the image receiving means (fig. 1, see abstract).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Barraclough's system to provide for the following: image storing means for storing an image in advance, wherein image stored by the image storing means is output by the image outputting means in case where image mute control means judges to output the image stored by the image storing means in place of image received by the image receiving means as this arrangement would provide means for protecting the privacy of user of the video telephone as taught by Nishimura.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (571)272-8098. The examiner can normally be reached on 9 Hr schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Melur Ramakrishnaiah
Primary Examiner
Art Unit 2643